United Nations S/AC.37/2003/(1455)/1

Security Council

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10 April 2003

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 7 April 2003 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Hungary to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, pursuant to paragraph 6 of Security Council resolution 1390 (2002) of 16 January 2002, has the honour to forward the updated national report of the Republic of Hungary pursuant to paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003.

03-32043 (E) 140403

Annex to the note verbale dated 7 April 2003 from the Permanent Mission of Hungary to the United Nations addressed to the Chairman of the Committee

Updated report to the Security Council Committee established pursuant to resolution 1267 (1999) (pursuant to paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003)

The Republic of Hungary remains strongly committed to the implementation of all Security Council resolutions on combating international terrorism. The Government of Hungary adopted a comprehensive approach, targeting all major aspects of the suppression of international terrorism by way of legislative, executive and administrative actions.

The first report of Hungary summarized the steps taken according to Security Council resolution 1390 (2002) and gave an overview of the legal instruments securing their appropriate implementation.

During the first year of implementation of Security Council resolution 1390 (2002) in Hungary there has been no activity detected attributable to Osama bin Laden, al-Qa`idah or the Taliban and no case of freezing funds and other financial assets of individuals and entities on the consolidated list has been reported.

Concerted action of all Hungarian authorities and agencies to combat international terrorism makes full use of the consolidated list. It is the responsibility of the relevant authorities and agencies concerned to follow the changes in the consolidated list provided regularly by the Committee.

During the period following the submission of the first report some important developments have taken place enhancing, and related to, the implementation of resolution 1390 (2002). They are as follows:

- The Hungarian Parliament promulgated the International Convention for the Suppression of Terrorist Bombings (on 10 September 2002) and the International Convention for the Suppression of the Financing of Terrorism (on 20 December 2002). Hence, Hungary is now a party to all international instruments relating to terrorism.
- Paragraph 261 of the Hungarian Criminal Code (Act of Terrorism) has recently been amended and is now in conformity with Security Council resolutions and the guidelines and principles of the Counter-Terrorism Committee (see attachment).
- New Legislation is under way to tackle international terrorism in a comprehensive manner. The new Act will integrate international obligations relating to terrorism stemming from both relevant Security Council resolutions and common positions of the Council of the European Union on combating terrorism. The Act is supposed to incorporate the Committee's consolidated list.

Most of the questions raised in the guidelines intended to assist States in preparing their reports are dealt with in great detail in Hungary's second, updated report to the Counter-Terrorism Committee (S/2002/1153).

The Government of Hungary is convinced that this report — together with previous ones — will assist the Committee in preparing an assessment of the actions taken by Member States and enable it to recommend improvements to the current measures for the consideration of the Security Council.

Attachment

New text of paragraph 261 of the Hungarian Criminal Code as amended by paragraph 15 of Act II of 2003 — Act of Terrorism

(1) Any person who, with the aim of

a) unduly compelling a government agency, a country, or an international organization to perform, or abstain from performing, or endure, any act;

b) intimidating a population;

c) altering or destabilizing the fundamental constitutional, social or economic order of a country or destabilizing the functioning of an international organization;

commits crimes of violence against a person, causing public danger, or involving weapons, as set out in sub-section (9), shall be punishable by a sentence of imprisonment for ten to fifteen years, or of life imprisonment.

(2) Any person who, with the aims set out in sub-paragraph *a)* seizes considerable assets or property and makes demands to government agencies or international organizations in exchange of refraining from doing harm or injury to the said assets or property, or of returning them, shall be punishable according to sub-section (1).

(3) The punishment may be mitigated without limitation if the person

a) abandons the commission of the act set out in sub-sections (1) and (2) before any grave consequence has arisen therefrom, and

b) discloses his activities to the relevant authorities and thereby contributes to the prevention or mitigation of the effects of the crime, to the identification of other offenders, or to the prevention of committing further crimes.

(4) Any person who perpetrates preparation for the crimes set out in sub-sections (1) and (2) commits a crime and shall be punishable by a sentence of imprisonment for five to ten years.

(5) Any person who invites, offers for, undertakes, or agrees on the joint perpetration of committing the crimes set our in sub-sections (1) and (2) in a terrorist group, or provides the means necessary or helpful for the perpetration of a crime, or supplies or collects financial means therefore, or supports the activities of the terrorist group in any other way, commits a crime and shall be punishable by a sentence of imprisonment for five to fifteen years.

(6) The person shall not be punishable for committing the crime set out in sub-section (5) if he/she reports the crime and its circumstances to the authorities before they would otherwise learn of it.

(7) Any person who threatens to perpetrate a crime set out in sub-section (1) or (2) commits a crime and shall be punishable by a sentence of imprisonment for two to eight years.

(8) Any person who receives credible information about a terrorist offence being prepared and does not report this to the authorities commits a crime and shall be punishable by a sentence of imprisonment up to three years.

(9) For the purposes of this section,

a) "crimes of violence against a person, causing public danger, or involving weapons" shall mean: homicide; assault; wilful endangerment while performing one's official duties; violation of personal freedom; kidnapping; offence against the security of traffic; imperil of railway, air or waterway traffic; violence against an official; violence against a person with public responsibility; violence against the supporter of an official; violence against a person protected by international law; causing of public emergency; disruption of the functioning of a public utility; seizure of aircraft, railway, waterway and road (vehicular) means of public transport or vehicles capable of mass transport of goods; abuse of explosives; abuse of firearms and ammunition; smuggling of weapons, abuse of radioactive substances; abuse of weapons prohibited by international treaties; crime against the system and data of information technology; wilful damage; robbery;

b) "terrorist group" shall mean: a group of three or more persons, established over a period of time with the aim of committing crimes defined in sub-sections (1)-(2).

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Security Council

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14 April 2003

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 11 April 2003 from the Permanent Mission of Sweden to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Sweden to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to acknowledge receipt of his note dated 4 March 2003.

Resolution 1455 (2003) calls upon all States to submit an updated report to the Committee no later than 90 days from the adoption of the resolution on all steps taken to implement the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002). Sweden's report on the implementation of resolution 1455 (2003) is enclosed (see annex).

03-32322 (E) 170403

Annex to the note verbale dated 11 April 2003 from the Permanent Mission of Sweden to the United Nations addressed to the Chairman of the Committee

Report by Sweden on the implementation of Security Council resolution 1455 (2003)

Security Council resolution 1455 (2003) calls upon all States to report within 90 days to the Committee established pursuant to resolution 1267 (1999). This report is set out according to the guidelines circulated by the Chairman of the Committee.

I. Introduction

Since the early 1990s the Swedish Security Service has identified persons resident in Sweden with connections to al-Qa'idah. The distinction between sympathizer and active supporter is often unclear and the extent of involvement/connection is often influenced by active supporters as well as by international developments. Continued attention to developments in Sweden is therefore deemed necessary in order to correctly assess the extent of activities in Sweden.

Al-Qa'idah's ambition and intention to target American, British and Israeli interests and goals are well documented. It could therefore not be ruled out that American, British and Israeli interests could be potential targets for al-Qa'idah network also in Sweden.

II. Consolidated list

1. The individuals on the United Nations list are incorporated in the Swedish national system through the European Union (national list). The Committee's list has been incorporated into Swedish legislation through Council regulation (EC) 881/2002 of 27 May 2002, imposing certain specific restrictive measures directed against certain persons and entities associated with Osama bin Laden, al Qa'idah network and the Taliban, and repealing Council regulation (EC) 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan.

2. No problems have been identified with implementation with regard to names and identifying information as currently included in the list.

In the light of the fact that many of the persons and entities on the list do not have any identification number or similar number in connection with the name, some problems were discovered when the financial institutions put the Council regulation into practice. On a case-by-case basis consultation was undertaken with the National Police Authority to sort out the problems.

The Swedish Missions abroad shall report to the Ministry for Foreign Affairs or the Migration Board which persons have been denied visas etc. Sweden has so far

not experienced any of the problems referred to in the question. (See further section IV below, Travel ban).

3. No designated individuals or entities have been identified by the authorities inside Swedish territory.

To the knowledge of the Swedish Financial Supervisory Authority, three individuals and three entities have been identified as designated individuals and entities within the Swedish territory (see Council regulation (EC) 881/2002), namely Adirisak Aden, Abdi Abdulaziz Ali and Yusaf Ahmed Ali (individuals) and Barakaat International Foundation, Barakaat International and Somali Network AB (entities). The following individuals were however removed from the list by 4 September 2002: Abdi Abdulaziz Ali and Adirisak Aden.

4. No comments.

5. During the autumn of 2001 there were three Swedish citizens listed on the Committee's list, in addition to three Swedish companies. The three citizens, of Somali descent, were working with the Swedish branches of al-Barakaat. The persons brought the case to the Court of First Instance of the European Communities (Order T-306/01 R 1, *Aden and Others v Council and Commission*) and they also asked for temporary relief. They were not granted temporary relief, and the case on the merits is still pending in the Court of First Instance. Two of the Swedish citizens have now been de-listed.

6. Three Swedish citizens have previously been listed. Two have been taken off the list, the third remains.

7. This answer could be divided into the following categories:

Terrorist acts

Persons committing terrorist acts are punished in accordance with the general provisions of the Penal Code. Terrorist acts may take the form of a number of specific offences, for example, murder, kidnapping, arson, devastation, endangering the public, sabotage, hijacking, maritime or air traffic sabotage, airport sabotage and spreading poison or a contagious substance. All these crimes are punishable by imprisonment for life. The Penal Code also provides for prosecution for acts being executed or planned from Sweden against other States or citizens. The Swedish legislation on jurisdiction is far-reaching.

Furthermore, in order to fulfil the obligations in the International Convention for the Suppression of the Financing of Terrorism a new act on penalty for financing serious crimes entered into force on 1 July 2002. According to the act it is punishable to collect, provide or receive money or other funds with the intention that they should be used, or with the knowledge that they are to be used, to commit serious crimes which in international conventions are classified as terrorism. The attempt to commit such crimes is also punishable.

Within the European Union a framework decision on combating terrorism was adopted in June 2002. The framework decision contains a definition of what kinds of act will be regarded as terrorist crimes. In order to fulfil the obligations laid down in the framework decision the Government has proposed a new act on specific terrorist crime, which would enter into force in July 2003.

Unlawful recruiting

A person who recruits people for military or comparable service without the authority of the Government can be sentenced for unlawful recruiting to a fine or imprisonment for at most six months or, if the Kingdom is at war, to imprisonment for at most two years (chap. 19, section12, of the Penal Code).

Preparation or conspiracy to commit a crime

Under chapter 23, section 2, of the Penal Code, a person who procures, constructs, gives, receives, keeps conveys or engages in any other similar activity with poisons, explosives, weapons, picklocks, falsification tools or other such means with the intention of committing or promoting a crime shall in certain designated cases be sentenced for preparation of a crime unless he or she is found guilty of having attempted to commit or committed the crime. In certain designated cases a sentence shall also be imposed for conspiracy. Conspiracy is defined as a decision to act in collusion with another person, or an offer to undertake or execute a crime, or the attempt to incite another person to do so.

The Special Control of Foreigners Act

The Special Control of Foreigners Act, the so-called terrorist law, allows the authorities to act even before there is full evidence of a crime being planned. Under this law, the Government can expel a foreigner if this is deemed necessary to the security of Sweden or if there are reasons to suspect that he or she will commit or take part in crimes involving violence, threats or coercion for political purposes. The law is not limited to terrorist crimes suspected of being committed in Sweden. It is also applicable when there are reasons to suspect that the person will commit or take part in such crimes abroad.

III. Financial and economic asset freeze

1. Relevant Community regulations are directly applicable in Sweden. On 6 March 2001, the European Union adopted Council regulation (EC) 467/2001, which implemented Security Council resolutions 1267 (1999) and 1333 (2000). This regulation contains rules about the freezing of funds and other financial assets and resources. To this regulation was attached the then current United Nations list of individuals and organizations targeted by the sanctions. Since then as many as 13 Commission regulations have been adopted to ensure that the list of the European Union corresponds to the consolidated list of the United Nations. Based on the regulations, assets can be frozen directly without any further implementation in Swedish law.

In addition, there is a Swedish law (Lag 2002:444) on financing of terrorism, implementing sanctions on giving financial assistance to criminals including terrorists. This law is based on United Nations General Assembly resolution 54/109 concerning the suppression of the financing of terrorism.

2. At governmental level each ministry is responsible for measures against terrorism in its own area of competence. As far as the international aspects are concerned, the Ministry for Foreign Affairs is in charge of general coordination. The

Prime Minister's Office also has a role in coordinating the Government's internal and external efforts in the area.

Within the Swedish National Police Board framework, the Swedish Security Police has an overall responsibility for counter-terrorism work in Sweden. The Swedish Security Police, which is a security intelligence service, has a long history of extensive international cooperation, mainly with other security and intelligence services, inter alia, on terrorism, including financing of terrorism. The latter issue means close cooperation with the Swedish Financial Police, other security and intelligence services, and to some extent with Europol.

3. Banks and other financial institutions are obliged to apply the conditions in Council regulation (EC) 881/2002 in their day-to-day business, i.e., to examine if the customer is one of the listed individuals or entities, and if the customer is a listed person the institution has to freeze the funds. Banks and financial institutions also have to observe the conditions in the Swedish Act on measures against financing of terrorism. According to the latter, banks and other financial institutions have to apply "due diligence" and "know your customer" to any suspicious customer or transaction. Banks and the majority of the financial institutions are subject to the prudent supervision of the Swedish Financial Supervisory Authority. Money remittance and exchange dealers are subject to the supervision of the Swedish Financial Supervisory Authority.

4. (a) In accordance with Council regulation (EC) 881/2002 (467/2001) Swedish banks and financial institutions have frozen assets of the Swedish individuals and entities listed in that regulation (for names see section II, para. 3, above).

(b) The frozen assets are connected to bank deposits.

(c) The frozen assets amount to SKr 1,2 million.

5. There have been no decisions taken regarding humanitarian exemptions according to the responsible authority, the National Social Insurance Board.

6. Sweden has as a member of the European Union to follow the regulations of the Council (i.e., regulation (EC) 881/2002). Sweden has also implemented the International Convention for the Suppression of the Financing of Terrorism by Swedish legislation. The Swedish Financial Supervisory Authority has also published regulations concerning measures for the prevention of the financing of terrorism.

(a) In connection with the significant event on 11 September 2001 in New York, the Swedish Financial Supervisory Authority sent to every institution under its supervision a letter containing inter alia information about Council regulation 467/2001 and what the institutions had to do to avoid being used for terrorist financing. The Swedish Financial Supervisory Authority thereafter informed every institution under its supervision by letter, by mail via the trade organizations and through the Swedish Financial Supervisory Authority's web site about changes in the Council regulation. At present the Swedish Financial Supervisory Authority communicates changes to the banks and financial institutions by mail via the trade organizations and through the Swedish Financial Supervisory Authority's web site. (www.fi.se)

(b) According to Council regulation (EC) 467/2001 a financial institution should report a suspicious transaction to the Ministry for Foreign Affairs. Under Council regulation (EC) 881/2002, the Swedish Financial Supervisory Authority is the receiver of Suspicious Transaction Reports. Since Council regulation (EC) 881/2002 came into force, on 27 May 2002, there have not been any Suspicious Transaction Reports. In accordance with the Swedish Act on measures against financing of terrorism, however, financial institutions have to report Suspicious Transaction Reports to the National Police Authority.

(c) Every financial institution, including money remittance and exchange dealers, has to fulfil the same requirements as a bank concerning Council regulation (EC) 881/2002 and the Swedish Act on measures against financing of terrorism.

(d) The Kimberley Process certification scheme was implemented in the European Union in 2002 by a Commission regulation. The regulation is directly applicable in Sweden. (Commission regulation (EC) 418/2003 of 6 March 2003 amending Council regulation (EC) 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds and rectifying Commission regulation (EC) 257/2003.)

(e) These entities have to fulfil the same requirements as a bank concerning Council regulation (EC) 881/2002 and the Swedish Act on measures against financing of terrorism.

IV. Travel ban

1. Administrative measures taken by Sweden to implement the travel ban: The Ministry for Foreign Affairs or the Migration Board submits instructions to Swedish Missions abroad to implement the travel ban.

2. Yes, Sweden has included the names of the listed individuals in the national lists.

3. The border controls are continuously provided with updated lists from the National Police Authority.

4. No listed individuals have crossed into Swedish territory to our knowledge (at least not with the listed identity).

5. No listed individuals have crossed into Swedish territory to our knowledge (at least not with the listed identity).

V. Arms embargo

1. The export of arms is governed by the Military Equipment Act. As a general rule, Swedish legislation does not permit the export of conventional arms, but exemptions from the prohibition can be made case by case. The scrutiny of each individual case is governed by a set of government guidelines covering the export of military equipment. The guidelines contain a series of conditions. Some of these are of an absolute nature. These include embargo decisions by the United Nations Security Council. As the Security Council has adopted resolutions regarding Osama bin Laden, members of al-Qa'idah and the Taliban and other individuals, groups,

undertakings and entities associated with them, no export licence will be issued to them.

The control of exports of products and technology that can be used in the production of weapons of mass destruction is governed by the Act on the Control of Dual-Use Items and Technical Assistance and European Union Council regulations (EC) 1334/2000 of June 2000 setting up a Community regime for the control of exports of dual-use items and technology. The latter provide, inter alia, a catch-all mechanism.

Concerning products that can be used in the manufacturing of weapons of mass destruction and carriers of these, Sweden has so far for the most part issued individual licences. A case-by-case review is made in each case taking into consideration the product, the country of destination, the end-user and the end use.

The National Inspectorate of Strategic Products, Sweden's national agency responsible for implementing the export controls, including licensing, cooperates closely with companies that deal with products that can be used in production related to weapons of mass destruction. The companies contact the Inspectorate even in cases concerning products that are not under export control, if the end-user is of concern. The Inspectorate controls the end-user and the end use and determines whether the product should be brought under control through "catch-all" (Council regulation (EC) 1334/2000, article 4).

2. The export of military equipment without an export licence is penalized by fines or imprisonment for up to two years, and in serious cases imprisonment for up to four years.

3. Every arms broker in Sweden needs a licence to act as a broker and conduct the supply of military equipment. If the arms broker is a Swedish authority, Swedish company or a person resident or permanently domiciled in Sweden he needs a licence also for activities that take place abroad. The arms broker has to apply for an export licence in the case of the equipment being located in Sweden and he has the right of disposal over it. If the arms broker, as defined above, wants to supply military equipment from one third State to another third State he needs a licence in each individual case. In this case the arms broker has to apply for a licence and in the application form indicate the buyer, or other recipient, and the end-user of the military equipment supplied. A licence would not be granted if the buyer or end-user is anyone subject to an arms embargo.

4. As long as the equipment supplied is on Swedish territory the Customs authorities can stop an export that does not have the required export licence.

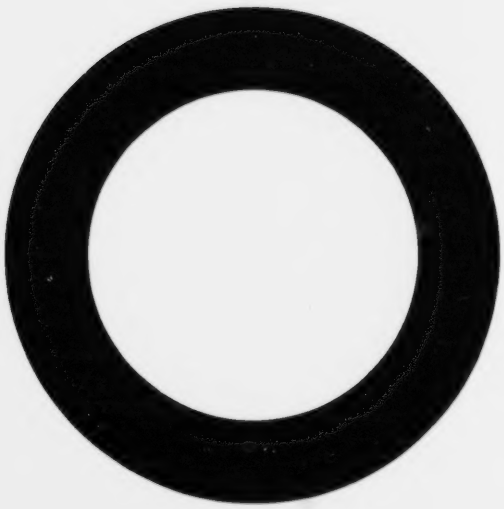
Sweden furthermore applies a control system that requires an end-user certificate for all sales overseas. The usual end-user certificate is an assurance from the recipient country's Government to Sweden that the procured equipment will not be resold without the permission of the Swedish Government. The wording of the certificate is formulated in Sweden and then printed on banknote paper to prevent manipulation and counterfeiting. For the same reasons, there are provisions dictating that a signed certificate should be sent to the National Inspectorate of Strategic Products via the Swedish Embassy in the recipient country. The Embassy checks that the signatory is authorized to sign the certificate. The Inspectorate does not generally deal with an application for an export licence until the end-user certificate is physically in the keeping of the Inspectorate.

Sweden always requires restrictions on re-transfer of controlled goods and approvals from the Inspectorate or the Swedish Government before controlled goods are exported to a third destination by the end-user.

VI. Assistance and conclusion

1. Sweden is of course willing to lend assistance to the extent possible under national rules and regulations, unless such help could compromise investigations or enforcement actions. Sweden would be willing and able to provide assistance on a case-to-case basis to other States, provided that nationals, community and international legislation do not constitute any hindrance for such assistance. Implementation of the resolutions in question has been done in a coordinated way among the member States within the European Union.

2. Sweden has not identified any incomplete implementation of the Taliban/al-Qa'idah sanctions regime or any areas where we believe specific assistance or capacity-building would improve our ability to implement the sanctions regime in question.



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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 11 April 2003 from the Permanent Mission of Angola to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Angola to the United Nations presents its compliments to the Chairman of the Committee established by Security Council resolution 1267 (1999), and has the honour to submit herewith the report of the Republic of Angola on legislation and measures for preventing and combating terrorism, prepared pursuant to Security Council resolution 1455 (2003).

03-32700 (E) 220403

Annex to the note verbale dated 11 April 2003 from the Permanent Mission of Angola to the United Nations addressed to the Chairman of the Committee

Report of the Republic of Angola pursuant to paragraph 6 of Security Council resolution 1455 (2003)

I. Introduction

The adoption of resolutions 1267 (1999), 1373 (2001), 1390 (2002) and 1455 (2003) and the establishment of the Committee pursuant to resolution 1267 (1999) has a major significance in the fight against terrorism and for improving the capacity to counter terrorism and to protect every nation against terrorist acts.

With reference to the activities of Osama bin Laden, al-Qa'idah, the Taliban and their associates, the Republic of Angola has been an active and serious partner in the fight against global terrorism.

As perceived by and in accordance with law, terrorist acts or the activities of Osama bin Laden, al-Qa'idah and their associates are typified as crimes that endanger national security.

According to the Penal Law of the Republic of Angola, crime is understood as being a set of presumptions from which depends the application of a penalty or of a measure of criminal security as defined in article 1 of the Penal Law, which reads: "Crime is the act voluntarily committed, declared punishable by the Penal Law."

The financing of terrorism and/or the activities of Osama bin Laden, al-Qa'idah, the Taliban and their associates are typified in articles 263 (Association of Malefactors), 282 (Illicit organizations), 283 (Secret associations) as well as in articles 349 and 350 of the Penal Law concerning crimes against the security of individuals.

According to article 21 of the Constitutional Law, "the fundamental rights (...) do not exclude the application of other laws or rules from international law (...) the constitutional and legal norms related to fundamental rights are applicable in harmony with the international juridical instruments to which Angola is already a party, being capable of being invoked by both parties".

In accordance with paragraph 1 of article 120 of the Constitutional Law, the courts are competent to administer justice, compliance with their decisions being obligatory for all citizens and legal persons. They prevail over the acts of other authorities. The different organs of national defence, besides their coercive function, have "procedural initiative" with regard to the crimes which we are dealing with, exercised in the terms of the Penal and Procedural Law.

In case of any information suggesting the presence of al-Qa'idah terrorist network in the country, the different organs of national defence must inform the Committee of the names and identifying information, to the extent possible, of the al-Qa'idah organization, Taliban and other individuals and groups associated with them, in compliance with resolution 1455 (2003).

II. Consolidated list

Through Article 24, paragraph 1, and Article 25 of the Charter of the United Nations the States confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties, under this responsibility, the Security Council acts on their behalf.

This being the case, we consider the resolutions of the Security Council as a subsidiary source of international law.

The concept of the primacy of international law is mentioned in the Constitutional Law of the Republic of Angola, article 21, which states: "The constitutional and legal norms related to fundamental rights are applicable in harmony with the international juridical instruments to which Angola is already a party, being capable of being invoked by both parties."

Compliance with international law is a primary concern of the Republic of Angola; its norms as well as the resolutions adopted by the Security Council under Chapter VII of the Charter of the United Nations are directly incorporated into the national juridical framework.

Thus, regarding the consolidated list, if there is any information suggesting the presence of al-Qa'idah terrorist network in the Republic of Angola, the different organs of national defence must convey to the Committee the names and identifying information, to the extent possible, of al-Qa'idah organization, Taliban and other individuals and groups associated with them in compliance with resolution 1455 (2003).

III. Financial and economic assets freeze

IV. Travel ban

V. Arms embargo

VI. Assistance and conclusion

The sanctions regime referred to in resolutions 1267 (1999), 1390 (2002) and 1455 (2003) concerning the freeze of financial and economic assets, as well as the travel ban and arms embargo, are instruments of the international community to address situations that threaten international peace and security.

Concerning measures taken by the Government of Angola, it is pertinent to mention the role played by Angola in the context of the Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola.

Angola played a determining role in the adoption of resolutions 1127 (1997) and 1173 (1998). The application of those sanctions resulted in the restriction of movement, the freezing of assets and/or financial resources of people and/or organizations that had, at that time, direct or indirect links with the financing and/or with terrorist acts committed in Angola and in neighbouring countries.

It is equally important to note the role that Angola played in the negotiation and conclusion of the Kimberley process, which, as is known, ended with the adoption of the Interlaken Declaration that put into effect a system of international certification which had the main goal of fighting illicit trafficking in diamonds and its links to transnational organized crime and the financing of terrorist acts.

Concretely, on the present topic, until now, the activities of Osama bin Laden, al-Qa'idah, the Taliban and their associates have not been reported by the different organs of national defence of Angola.

The Committee's list is automatically incorporated within the national legal framework since the Republic of Angola considers the Security Council resolutions, adopted under Chapter VII, as a subsidiary source of international law. Thus, the different organs of national defence as well as the Angola visa-issuing authorities and border checkpoints are committed to providing information and taking measures in compliance with resolutions 1267 (1999), 1390 (2002), and 1455 (2003).

While the primary responsibility for implementing sanctions enacted by the Security Council resolutions rests with Member States, effective implementation depends on effective coordination between the United Nations and Member States.

The Republic of Angola having already submitted relevant information in previous reports to the Counter-Terrorism Committee under resolution 1373 (2001), we enclose it as information to be taken into account by the Committee established pursuant to resolution 1267 (1999) in the context of the requirements of resolution 1455 (2003).

The Republic of Angola considers that Security Council resolutions 1267 (1999) and 1455 (2003) lay upon all States the obligation to strengthen legal institutions and capacities to combat terrorism. The Republic of Angola will continue to cooperate with the Committee and to implement its obligations under resolution 1455 (2003) by strengthening international standards and norms through resolution 1267 (1999).

Enclosures*

- Reports submitted to the Counter-Terrorism Committee
- Provisions of the Constitutional Law of the Republic of Angola
- Provisions of the Criminal Law of Angola
- Law on national security

* The enclosures referred to in the report are on file with the Secretariat, room S-3055, and are available for consultation.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 15 April 2003 from the Permanent Mission of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Macedonia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, with reference to the Committee's note of 4 March 2003, has the honour to communicate the following information in connection with the request for update of the States' reports as requested by Security Council resolution 1455 (2003):

1. In continuation of the regular activities carried out by the Government of the Republic of Macedonia, reported to the Chairman of the Committee with the Mission's note of 30 May 2002, all the relevant ministries and other State institutions in the Republic of Macedonia involved in the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002) are duly informed of their obligations.

2. At the date of this note the relevant ministries and other State institutions in the Republic of Macedonia do not have any new information on cases of activities of members of al-Qa'idah organization and other individuals, groups, undertakings and entities associated with them on the territory of the Republic of Macedonia, including their involvement in financial transactions through the Macedonian bank system.

03-32687 (E) 220403

United Nations S/AC.37/2003/(1455)/5

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16 April 2003
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Note verbale dated 15 April 2003 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and, in fulfilment of resolution 1455 (2003), has the honour to submit its updated report on the measures taken by Spain under paragraph 6 of that resolution (see annex).

03-32827 (E) 230403 230403

Annex to the note verbale dated 15 April 2003 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Committee

Report in fulfilment of United Nations Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

Activities of al-Qa`idah detected in Spain are sporadic and have to do with proselytism, logistics and financing. There is no reliable information revealing other threats to Spain.

II. Consolidated list

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including the financial supervision, police, immigration control, customs and consular authorities?

Concerning how the list has been integrated in our country, we can say the following:*

First, it must be taken into consideration that, within the European Community, EC Regulation No. 881/2002, currently in force, imposes certain specific restrictions aimed at particular persons and entities associated with Osama bin Laden, the al-Qa`idah network and the Taliban, thereby derogating from EC Council Regulation No. 467/2001.

This regulation requires freezing the assets of the persons mentioned in an annex, which are those on the list in question. The regulation is periodically amended to incorporate individuals on the aforementioned list in the annex.

Since Community regulations have direct effect in the Spanish legal system, the incorporation of the 1267 Committee's list follows that procedure.

Under article 2, paragraphs 3 and 4, of Act No. 40/1979, of 10 December 1979 on the Legal Regime for Exchange Control, the enforcement of the Council of Ministers Agreement of 30 November 2001 was ordered. This Agreement implements resolution 1267 (1999) and related resolutions of the United Nations Security Council, and contains an annex that includes the persons noted on the list of individuals drawn up by the 1267 Sanctions Committee.

Concerning integration in administrative structures, EC Regulation 881/2002, previously mentioned, lists the authorities in each member country that have competence in certain areas, for instance, informing the European Commission when assets have been frozen. In the case of Spain, they are the General Sub-Directorate for Inspection and Control of Capital Movements and the General Sub-Directorate for External Investment, both under the Ministry for Economic Affairs. For reasons of internal organization, the former has competence to act in this area.

* This response concerns only economic sanctions under resolution 1267 (1999).

It is also the General Sub-Directorate for Inspection and Control of Capital Movements which, on the basis of the implementing regulation of Act No. 19/1993 on the Legal Regime for Exchange Controls, to which sanction authority in that area has been attributed. Failure to meet the obligations described in EC Regulation No. 881/2002 is characterized as a very serious offence against article 10, paragraph 1, of the Act.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

Yes, both on the part of the financial agencies and the police: the lack of data on nationality and date and place of birth makes identification difficult.

When the financial agencies discover that the name of one of their clients is the same as one of the persons included on the list, they do not have sufficient information to determine if it is really the same person. This is because the list provides very little information on individuals whose assets must be frozen; frequently, just their first and last names are provided. In fact, there are many people with the same name. (We have recently learned that there are 14 individuals in Spain with the same first and last names as one of the individuals found on the list. All such persons elsewhere in the world would have to be added, as well.)

Under the circumstances, there is a risk that the financial agency could freeze an individual's assets without being completely certain that that individual is really the person on the list. The bodies which intervene to override the action in such circumstances are the General Sub-Directorate for Inspection and Control of Capital Movements, which in turn directs the State security forces and the Enforcement Service of the Commission for the Prevention of Money-Laundering and Financial Offences (Financial Intelligence Unit of Spain).

4. Have your authorities identified inside your territory any designated individuals or entities?

To date, none of the persons or entities included on the list have been identified in Spain.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa`idah that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

On 18 July 2002 the General Sub-Directorate for Inspection and Control of Capital Movements (Department of the Treasury and Financial Policy, Ministry for Economic Affairs) received a notice from a Spanish bank informing it that accounts of **Ghasoub Al-Abrash Ghalyoun** had been blocked.

This individual had been detained the previous day on suspicion of membership in an al-Qa`idah cell in Spain.

Although his name was not on the list, on the basis of the possibility of some type of link to that terrorist organization, the bank proceeded to block his accounts; the action was later reversed when the case was submitted to the judicial authorities and no related instructions were received from them.

The Spanish police have detained the following individuals:

Ahmed BRAHIM, who in April 2002 was accused of collaboration with al-Qa'idah in acts of proselytism, logistics, harbouring militants and financing. He is currently in prison.

Ahmed RASCAR and **Enrique CERDA IBAÑEZ** in March 2003. Both are currently in prison.

The police have identified **Issa ISMAIL MOHAMED** as a member of al-Qa'idah directly linked with **Khalid SHEIKH MOHAMED**. An international arrest warrant currently exists for Issa Ismail, who is considered responsible for management and coordination of this network in Spain.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

There are no reports of any such administrative or judicial proceedings being brought in the sense meant in the question.

III. Financial and economic assets freeze

9. Please describe briefly:

– the domestic legal basis to implement the asset freeze required by the resolutions above:

Council Regulation No. 881/2002 imposes certain specific restrictions against particular persons and entities associated with Osama bin Laden, the al-Qa'idah network and the Taliban, thereby derogating from EC Regulation No. 467/2001. The Council establishes that:

1. All funds and economic resources whose possession, ownership, or occupancy show a relationship to a natural or legal person, group or entity designated by the Sanctions Committee in the list in annex I shall be frozen.

2. Making available or using any type of funds for the direct or indirect benefit of the natural and legal persons, groups or entities designated by the Sanctions Committee and contained in annex I shall be prohibited.

3. No type of economic resource shall be made available, either directly or indirectly, to the natural or legal persons, groups or entities designated by the Sanctions Committee and listed in annex I, nor shall they be used for their benefit or to enable those persons, groups or entities to obtain funds, goods or services.

In addition, the Agreement of the Council of Ministers of 30 November 2001, implementing resolution 1267 (1999) and related United Nations Security Council resolutions in accordance with the principles contained in resolution 1373 (2001), as well as EC Regulation No. 467/2001, prohibits the movement of capital and corresponding operations of collection, payment or transfer which any of the persons, entities and organizations designated in the Annex to the Agreement have ordered, issued, benefited from or received. This provision contains the content noted in the reply to the second question.

In order to give an appropriate response to the financial flows sustaining terrorist organizations, a bill to prevent and block the financing of terrorism has been drafted and has reached the final phase of approval by Parliament. The bill establishes an Oversight Commission on the Financing of Terrorism, chaired by the Secretary of State for Security in the Ministry of the Interior, as the administrative body with competence to order the blocking and freezing of funds linked with persons and/or entities belonging to a terrorist organization, for a period of six months, renewable by court order.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The activities of the structure responsible for investigating Osama bin Laden, al-Qa`idah or Taliban-related financial networks fall under the Intelligence Service (Comisaria General de Informacion) of the General Directorate of the Police and the Intelligence Service of the General Directorate of the Civil Guard and are coordinated by the Secretariat of State for Security of the Ministry of the Interior.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Under article 301 of Organic Law No. 10/1995 of 23 November 1995, of the Penal Code, serious offences are underlying offences of money-laundering. Under article 13, serious offences are punishable by severe penalties and, under article 33, severe penalties include prison sentences of more than three years. Since terrorism, which is covered under articles 571 to 580, carries a more severe penalty than the above-mentioned penalty, it is an underlying offence of money-laundering.

It should also be noted, in addition to the foregoing, that terrorism is among other underlying offences covered by anti-money-laundering legislation under article 1 of Act No. 19/1993 of 28 December 1993 on specific measures to prevent the laundering of funds.

Article 2 of Act No. 19/1993 covers the following:

- Credit institutions;
- Insurance undertakings authorized to do business in the area of life insurance;
- Securities companies and agencies;
- Institutions for collective investment;
- Management companies for collective investment institutions and pension funds;
- Portfolio management companies;
- Companies issuing credit cards;

– Natural or legal persons that engage in the exchange of currencies, whether or not as a principal activity.

All these institutions are subject to a number of "know your customer" requirements designed to prevent money-laundering. Such requirements cover the matter under consideration. Under article 3 of Act No. 19/1993 and the implementing legislation (Royal Decree No. 925/1995 of 9 June 1995 approving the regulations for implementation of Act No. 19 of 28 December 1993 concerning certain measures for preventing money-laundering) the above-mentioned obligated parties have to meet the following requirements:

1. Identification of customers: obligated parties shall require submission of documents attesting to the identity of their customers at the time of establishing business relations as well as the number of persons effecting any transactions, except in the circumstances envisaged in the Regulations. The financial institutions listed in article 2, paragraph 1, (obligated parties) shall not be obliged to identify themselves.

   Where there is evidence or certainty that the customers or the persons whose identification is compulsory are not acting on their own account, obligated parties shall demand precise information attesting the identity of the persons on behalf of whom they are acting.

   The Regulations specify exceptions to the requirement to furnish identification and the documentary proof required, making a distinction between natural and legal persons.

2. Preservation of documentation: obligated persons shall preserve for a minimum period of six years copies of the documentation required for identification of customers who had effected transactions or had established business relations provided that there was an obligation to furnish such identification.

The Commission for the Prevention of Money-Laundering and Financial Offences is the main administrative body responsible for ensuring compliance with these obligations.

This Commission, which is chaired by the Secretary of State for Economic Affairs, is composed of representatives of: security bodies and forces, the Office of the Public Prosecutor, the Bank of Spain, the anti-tax evasion agency and the anti-drug trafficking agency.

The Commission has two bodies:

1. The Executive Service, which is responsible for ensuring compliance with the above-mentioned obligations and which has investigative powers.

2. The secretariat, which is empowered to institute penal proceedings with respect to the above-mentioned obligations, for submission to the Council of Ministers or to the Minister for Economic Affairs, as the case may be.

   The secretariat is also responsible for preparing draft rules for the handling of violations of provisions of Act No. 19/1993.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- **Identification(s) of the person or entities whose assets have been frozen;**
- **A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);**
- **The value of assets frozen.**

The document annexed hereto includes a table containing the information requested prepared by the Department of the Treasury and Financial Policy of the Ministry for Economic Affairs.

With regard to individuals in police custody (point 5) by court order, the financial assets in their accounts in Spain and abroad have been frozen: the legally frozen assets of Ahmed Brahim are estimated at 2.5 million euros.

With regard to Ahmed Rascar and Enrique Cerda Ibañez, efforts are continuing to identify, list and assess their financial assets.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

No funds have been released pursuant to the above-mentioned resolution.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa'idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used.**

Council Regulation No. 881/2002, whose contents have already been described in replies to previous questions, is currently in force in the European Union.

Regulation No. 881/2002 is amended from time to time to add names that the Sanctions Committee includes in the list. In that regard, 15 amendments have been published thus far.

Whenever one of these amendments is published, the Secretary of State for Economic Affairs sends an official letter to that effect to the following:

- Asociación Española de Banca (AEB)
- Confederación Española de Leasing
- Asociación Hipotecaria Española
- Unión Nacional de Cooperativas de Crédito
- Confederación Española de Sociedades de Garantia Recíproca (GESCAR)
- Asociación de Promotores Inmobiliarios de Madrid
- Asociación Española de Factoring
- Asociación Nacional de Entidades de Financiación (ASNEF)
- Asociación Española de Instituciones de Inversión Colectiva
- Mercado español de Futuros Financieros
- National Commission for the Securities Market (Ministry of Economic Affairs)
- General Directorate of Records and Notaries (Ministry of Justice).

Apart from the fact that the Community Regulations take effect as from the time of their publication in the Official Journal of the European Community, an effort is thus made to exert additional pressure on the most important groups of private individuals affected by the implementation of this law.

Moreover, the General Sub-Directorate for Inspection and Control of Capital Movements (General Directorate of the Treasury and Financial Policy, Ministry of Economic Affairs) examines many suspicions raised informally by individuals.

- **Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**

Under Act No. 19/1993 of 28 December 1993 on measures to prevent money-laundering and its implementing regulations, the banks have the obligation to scrutinize all operations which might by nature, regardless of the amount involved, be linked to the laundering of funds arising from a number of activities, including terrorism. If on examination the conclusion is reached that there is either evidence or certainty of such a link, it must be communicated to the Executive Service of the Commission for the Prevention of Money-Laundering and Financial Offences.

Such transactions must be communicated immediately through the internal monitoring and communications mechanisms that all obligated parties must have in accordance with the relevant legal provisions.

Each communication must contain the following information:

- Description and identification of the natural or legal persons taking part in the transaction and an account of their participation therein;
- Description of the transactions and dates thereof, indicating their nature, the currency in which they were transacted, the bank account, the place or places they were carried out, their purpose, and the methods of payment or credit used;

- Explanation of the circumstances of any kind revealing either evidence or certainty that a link to money-laundering exists;

- Any other information that the Executive Service may request in carrying out its duties. In this regard, the Executive Service issues instructions for requesting supplementary information, and stipulates, inter alia, the form and method by which the transactions in question should be communicated.

For the evaluation of such transactions, the Executive Service has joint teams made up of:

- Financial experts (inspectors from the Ministry of Finance and from credit associations);

- A brigade from the National Police Corps made up of agents specialized in this area;

- A liaison officer from the Civil Guard.

Their task is to scrutinize the transactions, drawing on their skills in the areas of finance and police investigation. If they conclude that there may be a link with terrorist activities, they must bring the matter to the attention of the judicial authority.

- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**

Under Act No. 19/1993 of 28 December 1993 on measures to prevent money-laundering and its implementing regulations, all financial institutions affected by the reply to question 11 are subject to a mandatory special investigation of their transactions and required to communicate any suspicious transactions, as described in the preceding section, under the same conditions as banks. In Spain, not only banks but also savings institutions, the Spanish Confederation of Savings Banks, the Official Credit Institute, credit cooperatives, financial credit institutions and electronic funds mechanisms are considered to be credit institutions.

The requirements for banks, described in the preceding section, are applicable to all other financial institutions.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds, and other related items.**

In addition to the activities and institutions discussed in the preceding two sections, in Spain the following non-financial activities are subject to special investigation of transactions and any suspicious transactions must be communicated:

Casinos

Real-estate promotion and buying and selling of real estate

Activities related to trade in precious gems, stones and metals

Activities related to trade in art objects and antiquities

Philatelic and numismatic investment activities

The activities referred to in the question are also fully included. The applicable obligations, and the method for investigation and evaluation are the same as those described in the preceding two sections.

- **Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawalah", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

In Spain, the remittance of funds is subject to certain restrictions *reserva de actividad* and the *hawalah* system is illegal and may not be utilized. Persons in institutions open to the public wishing to make financial transfers must obtain the authorization of the Bank of Spain, be entered in a register and fulfil the following requirements:

- Be a closely held corporation.
- Have as sole purpose the buying and selling of foreign currency, travellers cheques or foreign transfers.
- Have fully paid-up capital available in liquid form, and held as registered shares. There are also requirements regarding the amount of capitalization.

The Bank of Spain is responsible for monitoring compliance with such regulations, particularly those concerning certain restrictions (*reserva de actividad*).

As the answer to question 11 indicates, money-changing institutions (whose activities include the remittance of funds) are subject to Act No. 19/1993, and are therefore subject to special investigation of their transactions and the communication of any suspicious transactions, under the same terms as those described in the preceding sections.

Non-profit organizations that collect and remit funds for charitable purposes are subject to the regulations set forth in Act No. 50/2002, of 26 December 2002, on charitable foundations.

The general principles for the supervision of charitable foundations are:

- They must be entered in a public register under a public authority (of the State or of an Autonomous Community, as the case may be);
- They must be subject to the authority and control of a protectorate, which is always a role carried out by a public authority (of the State or an Autonomous Community, as the case may be).

A system is also being established to monitor the economic activities of foundations, which will be required to:

- Keep an orderly, adequate record of their activities;
- Draw up yearly account statements, including a balance sheet, an income statement and a performance report.

The yearly account of foundations are subject to external audit when at least two of the following circumstances apply:

- Their total assets exceed 2.4 million euros.
- The net annual earnings from their own activities plus, as applicable, the turnover from commercial activity exceed 2.4 million euros.
- The average number of workers employed during the period in question exceeds 50.

Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

By law, the monitoring of entries and exits at points designated for that purpose on Spanish territory is the responsibility of the national police force. The names contained on the 1267 list and its updates are incorporated into the police database.

The legislative measures providing for bans on entry into Spain and transit through Spanish territory are, essentially, Organic Law No. 4/2000 and its implementing regulations, adopted pursuant to Royal Decree No. 364/2001.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The names of persons affected by Security Council resolution 1267 (1999) have been entered into databases, for access by officials at border checkpoints. As to problems encountered, the need to include the nationality as well as the date and place of birth of the persons listed should once again be stressed.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

The transmitted list is "fixed" and, unless changes arise (such as, for instance, the arrest of one of the listed individuals), it is not altered. Yes, there are electronic means for searching data at entry points.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date, none of the persons on the list have been stopped on Spanish territory.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

To date, no visa applicants in Spain have been identified as persons on the list.

Annex

Frozen assets (does not show archived dossiers)

Name	*Tax ID number*	*Nationality*	*Order No.*	*Activity date*	*Affected asset*	*Adjusted amount*
Abdul Manan	E661460	Pakistani	2001/1442	5 October 2001	Credit card	0
					Electronic account	0
Aboul Rauf	J333424	Pakistani	2001/1459	5 October 2001	Credit card	0
Aboul Rauf	333704	Pakistani	2001/1457	8 October 2001	Bank account	0
Mohamed M. M. Naim	8659074	Egyptian	2001/1456	9 October 2001	Bank account	29,593 pesetas
					Credit card	0
Mohammed Amin	0E967870	Pakistani	2001/1452	5 October 2001	Credit card	
Mohammed Sharif	O939559	Pakistani	2001/1446	8 October 2001	Bank account	0
Mohammed Sharif	K312993	Pakistani	2001/1445	9 October 2001	Bank account	0
					Credit card	0
Mohammed Sharif Malik	E15281	Pakistani	2001/1443	9 October 2001	Bank account	0
					Credit card	0

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 16 April 2003 from the Permanent Representative of Turkey to the United Nations addressed to the Chairman of the Committee

The Permanent Representative of Turkey to the United Nations presents his compliments to the Chairman of the Security Council Committee established pursuant to Security Council resolution 1267 (1999) and, with reference to the note of 4 March 2003 from the Chairman of the Committee, has the honour to attach herewith the report of Turkey in accordance with resolution 1455 (2003).

03-35185 (E) 140503

Annex to the note verbale dated 16 April 2003 from the Permanent Representative of Turkey to the United Nations addressed to the Chairman of the Committee

Updated report of Turkey on steps taken to implement the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 of resolution 1333 (2001) and paragraphs 1 and 2 of resolution 1390 (2002)

(In response to resolution 1455 (2003))

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

Osama bin Laden, al-Qa'idah, the Taliban and their associates do not have any settled structures in Turkey. No activities of the aforementioned person and groups have been revealed in Turkey. However, the threat they pose for the country and its interests cannot be neglected.

The Turkish role model as a democratic, secular and open society with a predominantly Muslim population is utterly at odds with the ideology and aims that are furthered by al-Qa'idah. Turkey's membership in NATO, its accession candidate status to the European Union and its membership in all European and Euro-Atlantic organizations, as well as the leadership it had assumed in ISAF in Afghanistan recently, puts it in a unique position. Thus, there is ample reason to be vigilant.

In fact, it has been assessed that the threat posed by these elements to Turkey and the regions in its vicinity is increasing due to the ongoing war in neighbouring Iraq.

II. Consolidated list

2. **How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

The Turkish Council of Ministers, by taking into consideration lists of terrorist organizations, persons and entities issued by the Security Council Committee in accordance with the relevant Security Council resolutions, first promulgated a decree (2001/2483) on 22 December 2001, to freeze all funds, financial assets, economic resources, rights and claims including the content of safe deposit boxes of these terrorist organizations, persons and entities. The Council of Ministers also subjected all the transactions related to these assets to the permission of the Ministry of Finance. The list attached to the decree of the Council of Ministers has been updated by the following decrees: No. 2002/3873, dated 21 March 2002; No. 2002/4206, dated 16 May 2002; and No. 2002/4896, dated 1 October 2002. Finally, on 28 March 2003 the Turkish Council of Ministers promulgated a fourth update.

An ad hoc Coordination Committee composed of representatives of all relevant Ministries and government authorities and chaired by the Ministry of Foreign Affairs is continuously supervising national efforts on the implementation of the decrees of the Council of Ministers based on the Security Council Committee list. As part of this effort, the Ministry of Finance, the Secretariat of the Treasury and the Banking Regulation and Supervision Agency have assumed, among others, the duty of financial supervision of the Council of Ministers decrees. On the other hand, the Directorate General of Security of the Ministry of the Interior incorporates without any delay the names included in the consolidated list in its database for immigration, customs and consular use in order to deny those persons entry into Turkey.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

According to the Turkish legislation in force, there needs to be strong and sufficient evidence or indication to start an investigation against persons and institutions that are suspected of violating financial laws. Insufficient indictments based on weak information are doomed to be rejected by the Turkish courts.

It is a well-known fact that the list issued by the Security Council Committee does not contain any corroborating evidence or information against the concerned persons, institutions or companies. Thus it would be of vital help for the Turkish investigating bodies if the designating authorities would provide detailed information as to how these persons, institutions and firms, many of which do not have any records in Turkey, have become involved in terrorism, as well as information about their methods of supplying financial support to terrorism.

Furthermore, different spellings of the names as well as lack of information in many cases about the identities of the persons, institutions and companies contained in the list pose considerable difficulties for the Turkish financial investigating and law enforcement authorities. Such difficulties may give rise to mistakes during investigations and customs controls.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

One individual of non-Turkish nationality (Yasin Al-Qadi) with foreign capital has been found to be economically active in Turkey. The financial assets of this individual, which amount to almost US$ 2 million, have been frozen by decision of the Investigation Board of the Ministry of Finance.

Further to that, one company (Nasco Nasreddin Holding AS) included in the consolidated list has also been identified as active in Turkey. The investigation directed to this establishment has not been yet finalized. Due to the confidential nature of the investigation, further information cannot be provided at this time under Turkish law.

There has been also an old bank account identified, containing insignificant funds, belonging to one organization (Global Relief Foundation) in a financial institution. This particular bank account has been inactive for a long time.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of**

the Taliban or al-Qa'idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.

No such person or entity exists in Turkey.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.**

Yasin Al-Qadi, who is included in the consolidated list, brought a lawsuit against the Office of the Prime Minister, the Ministry of Justice and the Ministry of Foreign Affairs at the Council of State on 30 December 2001 for the annulment of the relevant decision of the Council of Ministers, which also included an immediate request of stay of execution. The stay of execution request of the plaintiff was rejected by the Court (Council of State), but the final decision is yet to be reached.

On the other hand, Nasco Nasreddin Holding AS, which is also included in the consolidated list, has also brought a lawsuit against the Office of the Prime Minister at the Council of State, requesting the annulment of the relevant decree of the Council of Ministers as well as an immediate stay of execution. This case is only at the initial stage, pending the decision of the Court.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

None of the individuals included in the consolidated Security Council Committee list are nationals of the Turkish Republic.

The resident permit issued to Yasin Al-Qadi, a foreign national, has been revoked by the Ministry of the Interior after he was identified as being included in the Security Council Committee list.

Although he has opened a lawsuit at the State Council through his attorneys as mentioned in our response to question 6, no further additional information was available to the Turkish authorities about his whereabouts.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa'idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa'idah training camps established in your territory or in another country.**

The Turkish Penal Code and the Law on Fight against Terrorism contain sufficient provisions to prevent entities and individuals from recruiting or supporting al-Qa'idah and other terrorist organization members in carrying out activities inside Turkey, and to prevent al-Qa'idah and other terrorist organizations from establishing training camps or participating in such camps within the country. As has been explained in our previous reports to the Security Council, participation in terrorist activities, assistance to and recruitment for terrorist and criminal organizations are crimes that are punishable with severe imprisonment terms under Turkish law.

On the other hand, the Turkish law enforcement authorities have taken stringent measures to deny entry into Turkey persons who could have links to al-Qa'idah. The Turkish law enforcement authorities are also on continuous alert against possible activities and attacks of al-Qa'idah and their supporters within the country, although no such cases have been reported until now.

III. Financial and economic asset freeze

9. **Please describe briefly:**

- **the domestic legal basis to implement the asset freeze required by the resolutions above;**
- **any impediments under your domestic law in this context and steps taken to address them.**

As has been outlined in detail in our two previous reports to the Security Council, there are several legal instruments that can be involved for asset freezing required by the relevant Security Council resolutions. These can be briefly listed as follows:

- Law No. 213 on Tax Regulations (in cases of tax evasion)
- Law No. 1918 on Prevention and Investigation of Smuggling (in cases of illegal exportation and importation of goods)
- Law No. 4208 on Prevention of Money-Laundering (money-laundering is defined as a criminal offence according to the provisions of this law. If dirty money is derived from offences of terrorism, or if the offence is committed with the aim of ensuring source for crimes of terrorism, the penalty of money-laundering shall be aggravated)
- Law No. 4422 on the Prevention of Benefit Oriented Criminal Organizations (in cases when a criminal organization acquires assets through violence, these assets may be confiscated)
- Law No. 3713 on Fight against Terrorism (according to the provisions of this law, the activities of associations, foundations and unions which are found to have lent support to terrorist movements shall be prohibited. Such organizations shall be dissolved by the decision of the relevant court. All assets of such organizations shall be confiscated)

Although many robust legal instruments, as listed above, can be invoked towards assets and other material means of terrorist and criminal elements, it must be stated that there is no specific provision of "terrorist financing" in the Turkish legislation. Necessary work is under way to address this shortcoming.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

As has been indicated in our answer to question 2, an ad hoc Coordination Committee chaired by the Ministry of Foreign Affairs is continuously supervising national efforts on the implementation of the decrees of the Council of Ministers based on the Security Council Committee list. This Coordination Committee meets on a random basis as required, for sharing information on and the coordination of common efforts for implementing the Council of Ministers decrees. The Ministry of Finance, the Ministry of the Interior, the Undersecretariat of the Treasury, the National Intelligence Service, the Banking Regulation and Supervision Agency, among others, report to the Ministry of Foreign Affairs on the outcome of the database searches and information derived from their investigations. If further investigation or information is needed, the Ministry of Foreign Affairs duly coordinates among relevant government authorities. The Ministry of Foreign Affairs also drafts the decrees that are promulgated by the Council of Ministers for the implementation of the list of terrorist organizations, persons and entities issued by the Security Council Committee. Further to that, the Ministry of Foreign Affairs, after due consultation and coordination with relevant government authorities, drafts the reports that are submitted to the Security Council Committee.

On the other hand, Turkey's national efforts against terrorism, a scourge that Turkey had to fight against for many decades, are well coordinated with its regional and international partners as well as within many international organizations such as NATO, the Council of Europe, OSCE, OECD, the Black Sea Economic Cooperation, the South-Eastern European Cooperation Initiative (SECI), the European Union etc., of which Turkey is a member or candidate to.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

In the Turkish legislation "due diligence" and "know your customer requirements" are ensured by means of communiqués on suspicious transaction reporting and customer identification which were issued by the Financial Crimes Investigation Board of the Ministry of Finance (MASAK).

The communiqués have been issued under the regulation regarding Law No. 4208 on Prevention of Money-Laundering, which stipulates that principles and procedures should be set forth by MASAK.

Pursuant to article 20, paragraph 4, of the Banks Act No. 4389, banks may not receive deposit from, extend credit to or open an account for or enter into a contract with or provide remittance and foreign exchange services and other banking and financial services to any customer who cannot prove his identity and tax registration number. Provisions relating to the application of this paragraph shall be laid down by the Ministry of Finance after obtaining the opinion of the Banking Regulation and Supervision Agency.

According to the customer identification requirement, all liable parties are obliged to customer identification when their customers or clients apply for conducting any financial or business transactions with them.

"Liable parties" cover not only banks and non-bank financial institutions but also non-financial institutions under the Regulation regarding Law No. 4208 on Prevention of Money-Laundering.

The Istanbul Stock Exchange Settlement and Custody Bank, intermediary institutions, investment companies, mutual funds and intermediary institutions in precious metal exchanges, on the other hand, are also listed among the institutions to provide suspicious transaction announcements to the Financial Crimes Investigation Board under the regulation for the implementation of Law No. 4208 on Prevention of Money-Laundering. Suspicious transaction types are defined in the general communiqués of the Financial Crimes Investigation Board in which suspicion of funds related to terrorism or terrorist acts is defined as a suspicious transaction type.

Article No. 12 of the communiqué of the Capital Markets Board regarding the principles on Intermediary Activities and Intermediary Institutions states that the intermediary institutions are obliged to determine the identity of their customers prior to opening an account according to Law No. 4208 on Prevention of Money-Laundering and the provisions of the related legislation. As can be inferred from the above explanations the "due diligence" requirements and the suspicious transaction announcements are defined according to the Law on Prevention of Money-Laundering and the provisions of the related legislation for which the required regulations are made by the Financial Crimes Investigation Board.

On the other hand, all the accounts opened by the intermediary institutions are kept in the Istanbul Stock Exchange Settlement and Custody Bank on a customer name basis and as mentioned above the Istanbul Stock Exchange Settlement and Custody Bank is informed about the people and entities who are designated as being associated with terrorist groups and asked whether these people and entities have accounts in the bank.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002).**

As stated in our answer to question 4, one individual of non-Turkish nationality (Yasin Al-Qadi) has been found to be economically active in Turkey. The financial assets of this person which amount to almost US$ 2 million have been frozen by decision of the Investigation Board of the Ministry of Finance.

On the other hand, an investigation towards the Nasco Nasreddin Holding AS company, which is also included in the consolidated list, has been initiated. Due to the confidential nature of the investigations no further information can be provided under Turkish law.

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa`idah, the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

No funds have been released pursuant to resolution 1452 (2002) that were previously frozen.

14. **Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities.**

The Financial Crimes Investigation Board determined a new suspicious transaction type (type 20). According to the new type, "Suspecting that funds are linked or related to terrorism or terrorist acts or used for the purpose of realizing such activities, or also existence that there are reasonable grounds to be suspected of those activities" is regarded as a suspicious transaction.

In the communiqué regarding suspicious transactions, suspicious transaction type 2 has already pointed out that "transferring large amounts of money from countries or to countries in which there are illegal activities regarding narcotic substances, smuggling or in which there are terrorist organizations, and transferring large amounts of money from or to offshore centres" is a suspicious transaction.

When the liable parties encounter such suspicious transactions, they are obliged to report the situation to MASAK which is the financial intelligence unit of Turkey.

MASAK evaluates the suspicious transaction reports in terms of money-laundering cases.

On the other hand, upon receiving the information about the individuals and entities who are identified as linked with terrorist groups, the Capital Markets Board investigates whether these individuals and entities are among the partners of the listed companies and capital market institutions. The Capital Markets Board also asks the Istanbul Stock Exchange Settlement and Custody Bank whether the given individuals and entities have any accounts in the bank and requests information about the cash and securities in these accounts as well as any changes that may take place.

If any information is obtained as a result of the investigations, the Directorate General of Intelligence and Research of the Ministry of Foreign Affairs is informed accordingly.

IV. Travel ban

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

According to the provisions of the Turkish Passport Law (No. 5682) precarious persons cannot be allowed entry into Turkey. The Directorate General for Security of the Ministry of the Interior keeps and updates a list (travel ban list) of persons who are denied entry into Turkey. After the decrees based on the consolidated list of the Security Council Committee have been issued by the Council of Ministers through the Official Gazette, the Directorate General for Security of the Ministry of the Interior incorporates the names of the individuals included in the list in its

database for travel ban which is electronically transmitted to the relevant border gates. As outlined in our answer to question 3, different spellings of the names, as well as lack of information in many cases about the identities of persons included in the list, constitute a major difficulty in maintaining a travel ban list.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

As explained in our answer to question 15, the names included in the Security Council Committee list are incorporated in the travel ban list of the Directorate General for Security of the Ministry of the Interior. Foreigners as well as Turkish nationals travelling to Turkey are required to provide valid passports or travel documents to the border police at the border gates. If a foreigner who is included in the travel ban list is detected at the border controls, he/she is automatically denied entry into Turkey by the border police.

17. **How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?**

The travel ban list is reviewed and/or updated on a continuous basis and transmitted to the border gates electronically. Each time the Council of Ministers list based on the Security Council Committee list is updated, the names appearing on this list are incorporated in the travel ban list without any further delay by the Directorate General for Security of the Ministry of the Interior.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

No such person either wanting to enter into Turkey or transiting through Turkey has been stopped at the Turkish border gates.

19. **Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your Consular offices. Have your visa issuing authorities identified any visa applicant whose name appears on the list?**

The updated database for travel ban is transmitted on a regular basis to the Turkish diplomatic and consular representations. Persons applying for entry or transit visas are controlled through the travel ban database by consular officers. No person included in the Security Council Committee list has been identified up to now by the Turkish visa issuing authorities.

V. Arms embargo

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

The export of arms and related material of all types, including the provisions of spare parts and technical advice, assistance or training-related military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)) is regulated by Law No. 3763 regarding the Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition. This law requires licences to be obtained from the Ministry of National Defence for the export of all weapons and ammunition, except sporting and hunting rifles.

The provisions of the said law are elaborated in detail by a Notification Regarding the Goods the Export of which are Prohibited or Subject to Licence issued each year in the Official Gazette by the Ministry of National Defence. This Notification contains, inter alia, references to export control agreements and arrangements to which Turkey adheres.

Since the names of persons and entities included in the Security Council Committee list are incorporated in the databases of many government authorities, it is not possible for such persons to acquire arms, items or related technology of any sort.

Turkey is a party to the Non-Proliferation Treaty, the Comprehensive Nuclear-Test-Ban Treaty, the Chemical Weapons Convention and the Biological Weapons Convention. Turkey is also a member of the Wassenaar Arrangement, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group and the Australia Group. Thus, weapons of mass destruction are not and cannot be produced in Turkey.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The provisions of the Turkish national legislation as well as the international treaties and conventions listed in our answer to question 20, which Turkey is a party to, contain sufficient safeguards for preventing terrorists from obtaining arms, items and related technology in Turkey.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

Arms and arms brokerage licensing are regulated under Law No. 6136 on Firearms. The provisions of this Law require stringent controls for issuing arms licences. Since the persons and entities included in the Security Council Committee list are incorporated in the databases of the Directorate General for Security of the Ministry of the Interior and the Undersecretariat for the Treasury, among others, it is not possible to issue any kind of arms licence to such persons and entities.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated?**

An end-user certificate is required for foreign sales of weapons and ammunition. The end-user certificate submitted by the exporter companies to the Ministry of National Defence for obtaining a licence for each individual case are meticulously examined by relevant authorities.

VI. Assistance and conclusion

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

Turkey is willing and able to provide assistance to other States in the financial, banking and law enforcement fields for implementing the measures contained in the relevant Security Council resolutions.

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa'idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

We do not have any further comments or additional information on the implementation of the Taliban/al-Qa'idah sanctions regime.

26. **Please include any additional information you believe pertinent.**

We do not have any further comments or additional information on the subject.

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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 16 April 2003 from the Permanent Mission of Tonga to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Kingdom of Tonga to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to refer to the latter's note of 4 March 2003.

The Permanent Mission of Tonga also has the honour to enclose the report of the Kingdom of Tonga pursuant to paragraphs 6 and 12 of resolution 1455 (2003), as requested (see annex).

03-35173 (E) 120503

Annex to the note verbale dated 16 April 2003 from the Permanent Mission of Tonga to the United Nations addressed to the Chairman of the Committee

Report of the Kingdom of Tonga to the Security Council Committee established pursuant to resolutions 1267 (1999), pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

Tonga continues to actively participate in domestic, regional and international efforts to facilitate compliance with UNSCR 1373 (2002) and UNSCR 1455 (2003). The Bali bombing incident in 2002 however has brought terrorism much closer to the Pacific region, although the threat of terrorism in Tonga is still very minimal. There are no activities by Usama Bin Laden, Al Qaida, the Taliban or their associates in Tonga, and every effort has been made to ensure that the situation does not change in the future.

II. Consolidated List

2. *How has the 1267 (1999) Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?*

The 1267 (1999) Committee's List has been incorporated within the legal system and administrative structure including financial supervision, police, immigration control, customs and consular authorities.

3. *Have you encountered any problems with the implementation with regards to the names and identifying information as currently included in the List? If so, please describe these problems.*

Tonga has not encountered any problems with implementation with regards to identifying information as currently included in the List.

4. *Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.*

There are no known individuals or entities associated with Usama Bin Laden or members of the Taliban or Al Qaida on Tongan territory.

5. ***Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.***

There are no known individuals or entities associated with Usama Bin Laden or members of the Taliban or Al Qaida on Tongan territory that are not included in the list.

6. ***Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.***

It therefore follows from questions (4) and (5) above that no individual or entities have brought a lawsuit or engaged in legal proceedings against the Tongan authorities for inclusion in the List.

7. ***Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.***

No individuals or residents have been identified as residing in Tonga.

8. ***According to your national legislation, if any, please describe measures taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al Qaida training camps established in your territory or in another country.***

The Criminal Offences Act (Cap.18) deals with various issues including under Part II - Abetment, harbouring, criminals, conspiracy etc, which criminalizes the recruitment, support of carrying out criminal

activities inside the country or participating in Al Qaida training camps established in country or in another country.

III. Financial and Economic Asset Freeze

Under the sanctions regime (paragraph 4(b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.[1]

9. ***Please describe briefly:***

- **The domestic legal basis to implement the asset freeze required by the resolution above;**

Section 19 of the Money Laundering and Proceeds of Crime Act 2000 allows an authorized officer to seize and detain property, including cash, which is being imported into or exported from Tonga, if he has reasonable grounds for suspecting that it is derived from a serious offence, or intended by any person for use in the commission of a serious offence.

Section 2 - "property" means cash and all other real or personal property of every description, whether situated in Tonga or elsewhere and whether tangible or intangible: "proceeds of crime" means any property derived or realized directly or indirectly from a serious offence, includes income, capital or other economic gains derived or realized from such property at any time since the offence.

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[1] For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible, movable or immovable (From the International Convention for the Suppression of the Financing of Terrorism)

Section 28 - where a person is convicted of a serious offence, the Attorney General may, no later than 6 months after the conviction, apply to Supreme Court for a confiscation order against property that is tainted property in respect of the offence, and/or pecuniary penalty order against the person in respect of benefits derived by the person from the commission of the offence.

- Any impediments under your domestic law in this context and steps taken to address them.

There are no impediments under our domestic law in this context.

10. Please describe any structure or mechanisms in place within your Government to identify and investigate Usama Bin Laden, Al Qaida or Taliban related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally, and/or internationally.

The National Reserve Bank of Tonga has distributed to all banks in Tonga, a list of terrorist associated names released by the USA and the ETA. All banks are required to report to the Reserve Bank any transactions involving and/or suspected to be linked to any individual/organization in the list.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

Section 12 of the Money Laundering Act requires a financial institution or cash dealer to take reasonable measures to satisfy itself as to the true identity of its customers. Financial institutions/cash dealers are further required to identify whether their customers are acting on

behalf of another person, if so, then they are required to take reasonable measures to establish the true identity of that person on whose behalf or whose ultimate benefit the customers may be acting in the proposed transaction. The banks have their own "know your customer" policies, which the Reserve Bank (who is also the Transaction Reporting Authority) have checked and confirmed to be satisfactory within the requirements of the Act.

Section 21 - the Supreme Court, upon the application by the Transactions Reporting Authority, may make an order, for the purposes of determining whether any property belongs to any person suspected to be linked to any serious offence, that any document relevant to identifying, locating or quantifying any property, or identifying or locating any document necessary for the transfer of any such property belonging to that person be delivered to the TRA.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolution 1267 (1999), 1333 (2001) and 1390 (2002). Please include to the extent possible, in each listing the following information:

- *Identification(s) of the person or entities whose assets have been frozen;*
- *A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);*
- *The value of assets frozen.*

To date there have not been any cases requiring any assets to be frozen under the Money Laundering and Proceeds of Crime Act 2000.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members

of the Al Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Refer to reply to question (12) above.

14 Pursuant to resolution 1455 (2003), 1390 (2001), 1333 (2001) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly to Listed individuals or entities or their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- *The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used;*

- *Required bank reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;*

Section 14 of the Money Laundering and Proceeds of Crime Act 2000 requires financial institutions and cash dealers to report transactions to the Transactions Reporting Authority as soon as possible but no later than 3 working days after forming that suspicion and wherever possible before the transaction is carried out.

Section 11 (2) (b) - the Transactions Reporting Authority shall send any suspicious transaction report to the appropriate law enforcement authorities if the report gives the Transactions Reporting Authority reasonable grounds to suspect that the transaction is suspicious.

Attached is the standard Form required by the Reserve Bank to be completed by licensed financial institutions and licensed foreign exchange dealers. Licensed Financial Institutions and Licensed Foreign Exchange Dealers are required by the Reserve Bank to confirm in writing if there were no suspicious transactions encountered during the month.

- ***Requirements if any placed on financial institutions other than banks to provide STR, and how reports are reviewed and evaluated;***

Financial institutions and cash dealers include non banks who carry on a whole range of financial activities listed under the definition in section 2, therefore non banks are covered by section 14.

- ***Restrictions or regulations, if any, placed on the movements of precious commodities such as gold, diamonds and other related items;***

Section 2 - "property" means cash and all other real or personal property of every description, whether situated in Tonga or elsewhere and whether tangible or intangible (this covers precious commodities); "proceeds of crime" means any property derived or realized directly or indirectly from a serious offence.

Section 19 - any authorized officer may seize and detain any property, which is being imported into or exported from Tonga if he has reasonable grounds for suspecting that it is derived from a serious offence, or intended to be used in the commission of a serious offence.

- Restrictions or regulations, if any, applicable to alternate remittance systems such as or similar to "hawala", as well as on the charities cultural and other non profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

Alternate remittance systems and charities cultural and other non profit organizations are also covered by if they are licensed as authorized dealers under the Foreign Exchange Control (Amendment) Regulations 2000.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390 (2002).

15. ***Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.***

A new visitor's visa regime was introduced into the Kingdom whereby all 'high risk' countries, including all passport holders from middle eastern territories are required to apply for a visitor's visa prior to entry into the Kingdom.

The issuance of visas is undertaken directly from the Immigration headquarters in Tonga in view of the fact that the consular missions do not as yet have access to the immigration programme online.

16. ***Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.***

The list has been widely circulated and added to Tonga's border control 'alert' computer system.

17. ***How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?***

Once the relevant authorities in Tonga have received the update list, it is immediately circulated to Border Control for their action. The list data can be searched electronically, but not yet available at all entry points (e.g. not in the three seaport entries to the Kingdom).

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No. We have had no foreign passports from Middle Eastern countries (except one from Sudan, and one from Saudi Arabia and the information was immediately conveyed to Australia, New Zealand and neighbouring Pacific Island countries). The two persons interrogated were head of the Islamic school in Fiji.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa issuing authorities identified any visa applicant whose name appears on the List?

There is only one visa issuing authority currently in place i.e. in the headquarters in Tonga. All visas are issued via a computer system and if a name is entered that matches a name on the list, the alert system will inform the visa officer. There have to date been no cases of visa issuing authorities identifying any visa applicant whose name appears on the List.

V. Arms Embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of the Al Qaida organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related material of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of the Al Qaida organization and the Taliban and other individuals, groups, undertakings and entities

associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

The Criminal Offences (Amendment) Act 2002 under Section 7A defines acts of terrorism to include (a) involves or causes (vii) the manufacture, possession, acquisition, supply or use of weapons, explosives or nuclear, biological or chemical weapons as well as research into and the development of biological and chemical weapons.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Refer to question (20) above.

22. Please describe how your arms/arms broker licencing system, if any, can prevent Usama bin Laden, members of Al Qaida organizations and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Part III of the Arms and Ammunition Act (Cap 69) prohibits the possession of arms and ammunition except under a licence, which is issued by the Minister of Police.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

There are no weapons or ammunitions produced in Tonga.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the

above-mentioned resolutions? If so, please provide additional details or proposals.

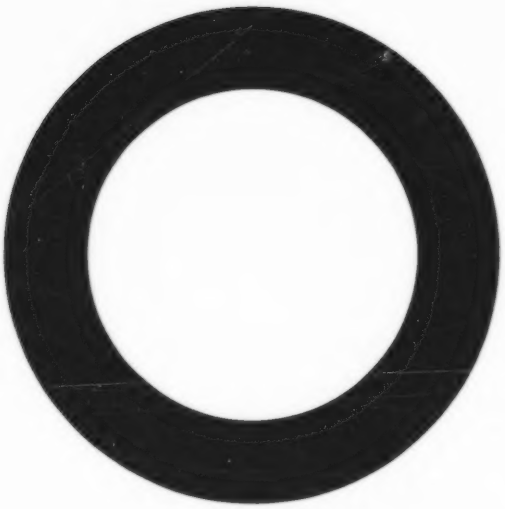
At the bilateral level, Tonga has established working relationship for the exchange of operational information on immigration, criminal activities (Police); financial institutions with countries such as the United States, Australia and New Zealand.

At the regional level, there are established contacts through the South Pacific Chiefs of Police for criminal matters; Oceania Customs Organisation with regards to customs related matters and Pacific Directors of Immigration with regards to immigration matters.

At the international level there is Interpol.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

Work is currently being undertaken to specify assistance and capacity building to improve Tonga's ability to implement the sanctions regime and details will be submitted in due course.



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Note verbale dated 16 April 2003 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit to him herewith the report of the Government of Denmark pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

03-35143 (E) 140503

Annex to the note verbale dated 16 April 2003 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

Report submitted by Denmark pursuant to paragraph 6 of resolution 1455 (2003) of 17 January 2003

In its resolution 1455 (2003), adopted on 17 January 2003, the Security Council called upon all States to submit an updated report to the Committee established by the Council pursuant to resolution 1267 (1999) no later than 90 days from the date of the adoption of the resolution.

The following report — prepared according to the guidance provided by the Monitoring Group on the format of the report — covers action undertaken by the Danish Government as well as action taken within the framework of the European Union.

I. Introduction

1. According to the information available to the Danish Authorities there are presently no known activities by Usama Bin Laden, Al-Qaida, the Taliban and their associates on the territory of Denmark.

However, the threats and challenges of international terrorism are global in nature affecting vital interests of Denmark, the European region and the international community as a whole. The responses to these threats will also have to be global.

II. Consolidated list

2. In order to implement UNSCR 1267 (1999) and UNSCR 1333 (2000) the European Union adopted on 6 March 2001 a Regulation (EC Council Regulation 467/2001) prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan. The Regulation provided for the freezing of all funds and other financial resources belonging to any natural or legal person, entity or body designated by the Sanctions Committee (established pursuant to UNSCR 1267 (1999).

In view of the measures imposed under UNSCR 1390 (2002) the European Union found it necessary to adjust the measures imposed in the Community by repealing Council Regulation 467/2001 and adopted a new Regulation (EC Council Regulation 881/2001) on 27 May 2002, which provides for the freezing of funds and other financial assets or economic resources of individuals, groups, undertakings and entities referred to in the list created pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

By means of its Resolution 1452 (2002) of 20 December 2002, the Security Council permitted certain exceptions to the freezing of funds and economic resources the previously mentioned resolutions. In view of Resolution 1452 (2002) the European Union adjusted its earlier imposed measures and adopted the exceptions allowed by the Security Council in EC Council Regulation 561/2003 on 27 March 2003.

In order to implement UN Security Council Resolution 1373(2001), the Danish Parliament adopted a legislative package containing several Anti-terrorism Acts on 31 May 2002, which entered into force on 7 June 2002. The legislation contains a broad range of initiatives aimed at combating terrorism and the financing of terrorism – including all the legislative amendments necessary to comply with international standards and requirements after the events of 11

September. Furthermore, the Anti-terrorism Act contains all the amendments necessitated by the International Convention for the Suppression of the Financing of Terrorism and the UN Security Council Resolution 1373(2001).

By the adoption of the Anti-terrorism Act, special sections on terrorism and the financing of terrorism have been inserted into the Danish Criminal Code, the powers of the national authorities to confiscate money and other property and the investigative possibilities of the police have been improved and the rules on criminal responsibility for legal persons (companies etc.) have been amended. The Anti-terrorism Act also contains new provisions on information exchange between the immigration authorities, the intelligence services and the prosecution authority, denial and revocation of residence permit, tightening of the prohibition on refoulement and fingerprints.

3. It is the experience of the Danish authorities that the lack of personal identifiers, such as passport numbers and dates of birth, regularly constitutes a problem for the full implementation of the 1267 Committee's list. It would save time and make work more effective if these identifiers were available.

4. The Danish authorities have thoroughly investigated all relevant information submitted to the authorities, which might have relation to any of the individuals or entities referred to in the 1267 Committee's list created pursuant to resolution 1390 (2002). So far these investigations have not resulted in any enforcement actions.

5. Due to the risk of compromising possible relevant intelligence or enforcement activities, it is not possible for the Danish authorities to submit names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the list.

6. The Danish authorities have not yet been faced with legal proceedings initiated by any individuals or entities for inclusion in the list.

7. The Danish authorities have not identified any of the listed individuals as nationals or residents in the Kingdom of Denmark. If the Danish authorities encounter any relevant information about the listed individuals and entities, this information will immediately be forwarded to the Committee.

8. The Anti-Terrorism Act of the Ministry of Justice that was adopted by the Parliament on May 31 2002, includes the following main elements:

- Insertion of a special section on terrorism in the Danish Criminal Code (straffeloven). A large number of the offences typically designated terrorist acts are today punishable under specific provisions of the Criminal Code. Thus, for example, homicide is punishable under section 237 of the Criminal Code regardless of the offender's motive for the act. The

Government wanted to signal more clearly that terrorism in all its forms is unacceptable in a democratic society. Therefore a terrorism section defining the concept of terrorism has been inserted into the Criminal Code. The provision comprises very serious offences committed to disturb the established order and intimidate the population, and the maximum penalty is fixed at life imprisonment. The provision is to implement the EU Framework Decision on combating terrorism.

- Insertion of a special section of financing of terrorism, according to which it is an offence, to a wider extent than today, to provide or arrange for financial support to a terrorist organisation or otherwise to contribute to the promotion of its criminal activities. The maximum penalty is fixed at 10 years imprisonment.

- An amendment to section 77 (a) of the Criminal Code to make it possible to carry out confiscation of money and other property (and not just "objects"), which it is feared will be applied to commit crimes. And at the same time an amendment to sections 802 and 803 of the Danish Administration of Justice Act (retsplejeloven) on seizure to make it possible to seize money and other property (and not just objects) for the purpose of confiscation under section 77 (a) of the Criminal Code. This amendment is necessary as a consequence of the proposed extension of section 77 (a) of the Criminal Code.

- Amendments to the rules on criminal responsibility for legal persons (companies, etc.), repealing the requirement that a violation of the Criminal Code must have been committed to obtain a gain for the legal person. It is further specified that legal persons can be punished for attempted offences to the same extent as natural persons. Finally, it is specified that the period of limitation for the criminal responsibility of legal persons must follow the period of limitation for natural persons. Today, the period of limitation for legal persons is always two years.

III. Financial and economic asset freeze

9. The legal basis to implement the asset freeze in Denmark is described briefly in paragraph 2 and 8. Further information on this aspect is provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002), and to the reports submitted to the Counter Terrorism Committee pursuant to paragraph 6 of Security Council Resolution 1373 (2001) by Denmark.

10. The police in Denmark, The Faroes and Greenland, including the National Security Service (the PET), constitute one national force employed directly by the State. Only the police and prosecution services have the authority to investigate offences, including drug offences, financial tracking and security. Accordingly, the customs authorities must notify the police and prosecution services of all drugs detected at border points.

The need for coordination between the independent law enforcement bodies is therefore somewhat limited in comparison with other countries where several national and local authorities can have independent investigative jurisdiction.

In September 2000 a Steering Group was set up with the participation of the National Commissioner of Police and the Director of Public Prosecutions as well as other high level representatives of the police and public prosecution. A major task of the Steering Group is to co-ordinate efforts to combat organised crime. The Customs and Tax Administration participate in the Steering Group on an ad-hoc basis. In practice, Danish Police monitors organised and other complex types of crime. Danish Police collects information from a variety of different sources, e.g. open sources, international law enforcement co-operation partners and from the different levels of the police force. The information is analysed, collated and evaluated by the National Commissioner of Police. Essential to this system is the close day-to-day contact between local, regional and national police and the National Security Service as well as strategic level.

In the case that a presumed terrorist is expected to cross a Danish border, the National Security Service can relay this information to the police at the relevant border post. Furthermore, the National Security Service can institute a search for a presumed terrorist through the Danish Criminal Register.

The initiatives that have been taken following the terrorist attacks against the United States on 11 September 2001 includes both increased mutual cooperation between national authorities and increased international cooperation, including increased exchange of information. The Danish Civil Security Service works in close cooperation with foreign police, security and intelligence services. Cooperation is carried out both on a general level with a view to monitoring existing threats and in connection with concrete investigations. International cooperation on combating terrorism is carried out both bilaterally and multilaterally, including in the EU, Europol and NATO.

11. Financial institutions are informed of all amendments to the EU Regulation 881/2002 implementing UNSCR 1390 (2002) and are required to search their databases for name similarities with the annexes to the Regulation. Information on name similarities is reported to the National Agency for Enterprise and Housing, administering the EU Regulation, who requests the National Security Service to confirm name identification. If name identification is established the accounts will be immediately frozen and all relevant information reported to the EU Commission and the CTC.

12. No accounts have so far been frozen in Denmark to date on the basis of the EU Regulation 881/2002.

13. Since no funds, financial assets or economic assets have been frozen in Denmark, the Danish authorities have not yet been in a position to release assets according to the exceptions in the EU Regulation 561/2003 implementing UNSCR 1452 (2002).

14. The Danish Bankers Association, the Confederation of Danish Industries, the Danish Federation of Small and Medium-Sized Enterprises and the Danish Insurance Association receive in writing information on all amendments to the EU Regulation. They are required to inform their members accordingly. The members must report to the National Agency for Enterprise and Housing any name similarities or other relevant information. Henceforth, the procedure is as mentioned in paragraph 11

The Danish Act on measures to prevent money laundering and financing of terrorism requires that if a transaction is suspected to be associated with financing of terrorism the bank is obliged to investigate the transaction. If the suspicion cannot be disproved, the Public Prosecutor for Serious Economic Crime shall be informed. Fines may be stipulated for violation of this clause.

Transactions from the account or person in question may only be carried out with the consent of the Public Prosecutor for Serious Economic Crime. The Public Prosecutor for Serious Economic Crime decides, as soon as possible and no later that at the end of the banking day following receipt of notification, whether the funds in question should be seized.
The Public Prosecutor for Serious Economic Crime may demand any information necessary for investigation of the case according to the regulations in the Administration of Justice Act

Denmark is bound by the general European Union regulations on trade and custom tariff. According to these no import restrictions exists on gold and diamonds except for those agreed in the so-called Kimberley-process, where a certification system has been established to prevent trade with diamonds originating from regions and countries affected by war, internal conflict etc. The established system has been implemented in the EU by a number of EC Council regulations.

Gold and diamonds freely can be exported from Denmark unless they are considered to be part of the national Danish cultural treasure. If considered so, export-permits can be applied for at the Committee for Cultural Property.

The public collection of funds in Denmark is regulated in the Public Collections Act (Act number 623 of 15 September 1986 with later amendments). The Act prescribes a monitoring mechanism for the public collection of funds and the use of such funds. Furthermore, the Ministry of Justice has issued an Order regarding Public Collections (Order number 523 of 15 December 1971 with later amendment). The order contains provisions regarding the procedure for public collections and the control of the use of collected funds.

According to section 1, subsection 1, of the Public Collections Act the police must be notified before a public collection of funds is initiated.

Section 2 of the order contains provisions, which specify the requirements for the form and the content of the notification to the police. The notification to the police must state the persons or the institutions etc. responsible for the collection. Furthermore, the notification must state the period of time during which the collection will take place as well as the area, where the collection will take place. The notification must also include information on the manner in which the collection will be performed and information on the purpose for which the collected funds will be used.

It should be noted that the requirement of notification to the police does not imply issue of an authorization or prior approval of the purpose of the collection.

However, public collections can only be arranged in order to support a legal purpose. The notification procedure ensures that the police receives the necessary information on the purpose of the collection and thus will be able to assess the legality of the purpose.

Collected funds can only be used for purposes different from those stated in the notification to the police by authorization from the Ministry of Justice, cf. section 4, subsection 2 of the order.

Proper accounts of all profits and expenses in relation to the collection must be kept, cf. section 5, subsection 1, of the order. The accounts must be revised by a state-authorized public accountant or by a registered accountant. The administrative expenses and the use of the profits must be specified in the accounts. The accountant must state whether the necessary documentation is provided.

Additionally, the order prescribes that a copy of the accounts and a notice stating when and where the publication of the accounts will take place must be sent to the police, cf. section 7.

A breach of the provisions in the Public Collections Act and the Order regarding Public Collection is punishable.

IV. Travel ban

15. With regard to the travel ban provided by paragraph 1 of resolution 1455 (2003) reference is made to the information on legislative and administrative measures made available in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002). It should in particular be noted that after Denmark has entered the practical Schengen co-operation border control is only carried out at the external Schengen borders in Denmark. The control of the external borders is regulated in the Danish Aliens Act, which has been amended to meet the requirements set in the Schengen acquis.

According to the Danish Aliens Act an alien not issued with a residence permit for Denmark may be refused entry if reasons of public order, relations with foreign powers or reasons of

security or health of the Schengen countries indicate that the alien should not be allowed to stay in Denmark. Such aliens may also be denied a visa for entry into or transit through Denmark. Following the terror acts on 11 September 2001, the control of the Danish borders has been carried out with a special awareness towards the fight against terrorism.

16. The National Commissioner of Police registers on an ongoing basis the persons who appear on the received updated lists and any additional personal information provided by the lists in The Danish Criminal Register. All mentioned persons are registered with a permanent prohibition to enter Denmark and with a note that all applications for entry permits by the registered persons must be presented for consideration by the Danish Ministry of Foreign Affairs.

17. All registered information in The Danish Criminal Register are instantly accessible, via the police's general computer system, for all members of the Danish police force, including the personnel working at the Danish border controls.

18. None of the listed persons have so far been stopped at a Danish border point or while transiting Danish territory.

19. The Danish Consular offices and visa-issuing authorities are provided with the updated list is order to ensure that individuals appearing on the list are not granted visa to Denmark. So far no cases have been identified in which the visa applicants names appeared on the list.

V. Arms embargo

20. Denmark maintains strict export controls on arms transfers to other countries. Denmark is a member of the Wassenaar Arrangement and the European Union and observes their guidelines for evaluating applications for arms exports licenses. The terrorist threat requires export controls to focus more closely on end users and end use, not just recipient countries. To promote this, Denmark supported the inclusion of a terrorist clause in the guidelines of all export control regimes to prevent controlled items from falling into the hands of terrorists. In 2002 it presented a proposal to this effect in the Missile Technology Control Regime, which formed the basis of an agreed text early this year. Also in 2002 Denmark suggested a review of the Wassenaar Arrangement Guidelines on MANPADS (man-portable air defence systems) to make sure they are adequate to prevent terrorist use of such weapons. This review is currently under way.

21. For full information on the legislative measures adopted to criminalize the violation of the arms embargo reference is made to the information on this aspect provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002).

22. For full information on the Danish arms licensing system reference is made to the information on this aspect provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002).

23. For full information on the safeguards pursued by the Danish Authorities to ensure that Danish produced weapons and ammunition will not be diverted to Usama bin Laden, the Al-Qaida organisation or other individuals or entities on the Committee's list reference is made to the information on this aspect provided in Denmark's report of 16 April 2002 submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002).

VI. Assistance and conclusion

24. Denmark is prepared to provide assistance to other States in the drafting of anti-terrorism legislation and in information sharing concerning practice in this area. Reference is in this regard made to the contact list provided in the supplementary report of Denmark of 14 February 2003 (S/2003/274) submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

25. Denmark will continue to cooperate actively with its partners and fellow member states in the EU and in the UN to ensure the fullest possible implementation of the sanction regime proscribed by resolution 1455 (2003).

United Nations S/AC.37/2003/(1455)/9

Security Council

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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 16 April 2003 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Korea to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and has the honour to submit herewith an updated report of the Republic of Korea, in accordance with paragraph 6 of resolution 1455 (2003).

03-35203 (E) 140503

Annex to the note verbale dated 16 April 2003 from the Permanent Mission of the Republic of Korea to the United Nations addressed to the Chairman of the Committee

Report to the Committee submitted pursuant to paragraph 6 of Security Council resolution 1455 (2003)

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.**

Neither the presence of or activities by al-Qa'idah, the Taliban or their associates within the territory of the Republic of Korea have been detected, prior to and after the 11 September terrorist attacks in the United States.

II. Consolidated list

2. **How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?**

When the Committee adopted the consolidated list pursuant to the relevant Council resolutions, the Ministry of Foreign Affairs and Trade immediately conveyed the list through official communication channels to concerned authorities within the Government, along with the request to undertake necessary steps to implement the sanctions regime. The list has also been shared with the police, intelligence and consular authorities, to be utilized in their respective law enforcement activities.

Different domestic laws and regulations apply to each component of the sanctions imposed by resolution 1390 (2002) and further extended by resolution 1455 (2003).

In order to implement the financial ban against individuals and entities associated with the Taliban and al-Qa'idah, the Ministry of Finance and Economy issued a new decree, on 11 October 2001, entitled "Approval Guidance on Payment and Receipt of Taliban and other Terrorist-related Funds" under the legal authority of the Foreign Currency Control Act. In accordance with the decree, banks and other financial institutions are required to freeze financial assets, as called for in the relevant Council resolutions.

To expedite implementation of the travel ban, the Ministry of Justice has been activating relevant provisions in the Statute of Immigration Control. Pursuant to the Statute, the Ministry of Justice puts the individuals designated under the relevant Council resolutions on the controlled list and disseminates the list to every border control authority via computer networks to enforce a strict immigration watch for the listed individuals.

To accommodate the arms embargo against the listed individuals and entities, the Ministry of Commerce, Industry and Energy amended in 2002 the decree entitled

"Special Measures as to Restrictions on Trade for the Maintenance of International Peace and Security" under the legal authority of the Foreign Trade Act. The Korea Customs Office acts as the enforcement agency in the field.

3. **Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.**

We have not encountered any problems with implementing the sanctions thus far. However, it should be noted that a great majority of the names on the consolidated list lack the necessary identifying information, which may cause difficulties in the future.

4. **Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.**

Our authorities have not identified inside our territory any individuals or entities designated under the consolidated list.

5. **Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.**

Our authorities have not identified inside our territory any individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah that have not been included in the consolidated list.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.**

There have been no such cases thus far.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

Our authorities have not identified any of the listed individuals or entities as nationals or residents of the Republic of Korea.

8. **According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa'idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa'idah training camps established in your territory or in another country.**

Article 114 of the Criminal Act and article 4 of the Act on the Punishment of Violent Actions etc. both stipulate that organizing a group with intent to commit crime constitutes a criminal act. Article 5 of the latter Act further provides that assisting criminal groups also constitutes a criminal act.

Articles 30 to 32 of the Criminal Act rule that any activities providing funds for these crimes shall be punished as an act of complicity in a crime. Also, in accordance with article 48 of the same Act, assets connected to terror-related criminal activities shall be confiscated.

III. Financial and economic asset freeze

9. **Please describe briefly: the domestic legal basis to implement the asset freeze required by the resolutions above; any impediments under your domestic law in this context and steps taken to address them.**

The Ministry of Finance and Economy issued a new decree on 11 October 2001, entitled "Approval Guidance on Payment and Receipt of Taliban and other Terrorist-related Funds" under the legal authority of the Foreign Currency Control Act. On 12 December 2002, the Ministry amended the Guidance to incorporate the bilateral request from the United States Government for a financial ban on those designated under United States Executive Order 13224 of 23 September 2001.

We do not have any impediments under our domestic law in this context.

10. **Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa`idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.**

On the basis of the Ministry of Finance and Economy decree mentioned above, banks and other financial institutions are obligated to detect financial transactions involving the listed individuals and entities and provide relevant information to the Ministry. The Ministry shares, as appropriate, information with law enforcement agencies, subject to potential investigation.

We also have a number of domestic laws in place to suppress the financing of terrorists. The Criminal Act and many other special laws stipulate a number of terror-related activities as a crime, and that any activities providing funds for these crimes shall be punished as an act of complicity in a crime.

All financial institutions and law enforcement agencies coordinate activities and exchange information with regard to the identification and investigation of financial networks of individuals and entities contained in the consolidated list, through bilateral and multilateral channels established at the national, regional and international level.

11. **Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.**

In accordance with its decree, the Ministry of Finance and Economy sends the consolidated list to the banks and other financial institutions that are obligated to register it on the electronic database as classified information.

Through the database network, the banks and other financial institutions can detect any financial transactions involving the listed individuals and entities in our territory.

The Korea Financial Intelligence Unit, an independent body in charge of monitoring money-laundering activities, is seeking to find a way to accommodate in our legal system "due diligence" or "know your customer" requirements, consistent with the recommendations of the Financial Action Task Force for Money-laundering.

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002).**

No such listed individuals or entities have been found in the Republic of Korea. As a result, no assets of listed individuals and entities have been frozen pursuant to resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003).

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.**

Because we do not have any frozen assets of listed individuals and entities as mentioned above, we do not have any frozen assets released, either.

14. **Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities.**

Pursuant to its decree, the Ministry of Finance and Economy uses official channels of notification to inform the banks and other financial institutions in our territory about the content of the decree and the list of designated individuals and entities.

Article 4 of the 2001 Financial Transaction Reports Act provides that all financial institutions shall report without delay any suspicious financial transactions to the Korea Financial Intelligence Unit, if there is a reasonable basis for suspicion.

The above-mentioned Act further stipulates in article 7 that the Unit shall review and analyse the reported suspicious financial transactions and provide relevant information to all investigating law enforcement agencies, including the Prosecutor-General of the Public Prosecutor's Office, the Commissioner-General of

the National Police Agency, the Commissioner of the National Tax Service, the Commissioner of the Korea Customs Office, and the Financial Supervisory Committee.

Law enforcement agencies which receive information from the Korea Financial Intelligence Unit conduct investigations as appropriate. If they find sufficient evidence against any alleged perpetrator(s), they will take necessary steps, including prosecution, in accordance with the Criminal Act.

Pursuant to the Foreign Currency Control Act, the export and import of gold bullion exceeding US$ 50,000 in value are subject to the approval of the Governor of the Bank of Korea; effective restrictions are thereby placed on the movement of gold. Effective 1 January 2003, the Republic of Korea is a full participant in the Kimberley Process Certification Scheme barring the import and export of diamonds with countries that are non-participants.

In accordance with the Foreign Currency Control Act, all kinds of alternate remittance systems are subject to punishment.

The Financial Transaction Reports Act, the Proceeds of Crime Act, and the Foreign Currency Control Act are applicable to all financial actors, including individuals and charitable, religious and cultural organizations.

The Commercial Act, the Civil Act and the Act on the Establishment and Operation of Public Organizations stipulate that those who wish to establish non-profit organizations such as charitable, religious or cultural organizations must register with the relevant authorities. The supervisory authorities monitor their activities so that they cannot be implicated in terrorist or criminal activities.

IV. Travel ban

15. **Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.**

In order to implement the travel ban, the Ministry of Justice has been activating relevant provisions in the Statute of Immigration Control. In accordance with the Statute, the Ministry puts the individuals designated under the relevant Council resolutions on the controlled list and disseminates the list to every border control authority via computer networks to enforce a strict immigration watch for the listed individuals.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.**

The Ministry of Justice has added the names of the listed individuals to our national border checkpoint list kept in the computer database. Every border control authority has exclusive access to the names of the listed individuals through the database system.

17. **How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?**

As soon as the Ministry of Foreign Affairs and Trade gets the updated version of the list from the Committee, it transmits the information to the Ministry of Justice. The Ministry of Justice, in turn, adds the new or changed information to the border checkpoint list.

We possess the capability of searching list data using computer networks.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

There have been no such cases thus far.

19. **Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?**

The Ministry of Foreign Affairs and Trade circulates the information on the listed individuals and entities internally. Its Consular Affairs Division has instructed all Korean Embassies and Consulates to incorporate the list in the reference database.

Our Embassies and Consulates resident in foreign countries have not yet reported any visa application involving a name appearing on the consolidated list.

V. Arms embargo

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction by Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?**

To accommodate the arms embargo against the listed individuals and entities, the Ministry of Commerce, Industry and Energy amended in 2002 the existing decree entitled "Special Measures as to Restrictions on Trade for the Maintenance of International Peace and Security" under the legal authority of the Foreign Trade Act.

The Ministry of Commerce, Industry and Energy further issued a decree entitled "Public Notice on Trade and Export of Strategic Goods", under the legal authority of the Foreign Trade Law, to introduce a catch-all system into its legal framework to restrict export of dual-use items and sensitive technology to foreign destinations, effective 1 January 2003. The Korea Customs Office implements enforcement in the field.

Further, the Republic of Korea has been a contracting party to all of the existing export control regimes since it joined the Missile Technology Control Regime in 2001 (Nuclear Suppliers Group, 1995; Australia Group, 1997; Wassenaar Arrangement, 1996). The requirements under these regimes are fully implemented through the Public Notice mentioned above.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

Pursuant to the Foreign Trade Act, any violations of the above-mentioned decrees shall be punished by imprisonment for not more than five years, or a fine not exceeding thrice the value of the items in violation.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

Article 70 of the Firearms, Knives, Explosives, etc. Control Act prohibits non-licensed manufacture, sale and trade of firearms and, in accordance with articles 30 to 32 of the Criminal Act, assistance through supply of weaponry to all sorts of terror-related crimes shall be punished as an act of complicity in those crimes.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The Special Law on Defence Industry and the Technology Development and Promotion Act function as further safeguards in controlling the export of weapons and related technology to individuals and entities associated with the Taliban and al-Qa'idah.

VI. Assistance and conclusion

24. **Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.**

We will continue to review our capacity to assist other States to help them implement the sanctions imposed on al-Qa'idah, the Taliban, and related members and entities.

25. **Please identify areas, if any, of any incomplete implementation of the Taliban/al-Qa'idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.**

Not available.

26. **Please include any additional information you believe pertinent.**

Not available.